



Attorney Docket No. 12521-015

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Title: Point of Sale System

Inventor: Wiram, Gordon Michael

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Group Art Unit: 3627

APPEAL BRIEF

Mail Stop Appeal Brief - Patents
Commissioner for Patents
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Sir:

This amended Appeal Brief is being filed in triplicate. The appeal fee of \$510 under 37 C.F.R. 1.136(a) has previously been paid. Authorization is hereby given to charge any deficiency (or credit any balance) to the undersigned deposit account 503289.

This is an appeal from the decision dated October 24, 2006 finally rejecting claims 1-29 and 31-52 as follows:

a. Claims 1-3, 5-20 and 22-29 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over the U-Haul reservation system prior to February 5, 2000 (hereinafter the "U-Haul PC-Based System") in view of U.S. Patent No. 5,875,433 issued to Francisco et al (hereafter "Francisco et al.");

b. Claims 4 and 21 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over the U-Haul PC-Based System in view of Francisco et al., and further in view of the Budget reservation system (hereinafter the "Budget System");

c. Claims 31, 32 and 34-41 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over the U-Haul PC-Based System;

d. Claim 33 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over the U-Haul PC-Based System, and further in view of the Budget System;

e. Claims 42, 43 and 45-52 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over the U-Haul PC-Based System; and

f. Claim 44 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over the U-Haul PC-Based System, and further in view of the Budget System.

REAL PARTY IN INTEREST

The real party in interest is U-Haul International, Inc., the assignee of the subject application.

RELATED APPEALS AND INTERFERENCES

None.

STATUS OF CLAIMS

Claims 1-29 and 31-52 are pending in the application, have been finally rejected and are the subject of this appeal.

STATUS OF AMENDMENTS

Claims 1-29 and 31-52 have not been amended after the final rejection of October 24, 2006.

SUMMARY OF THE CLAIMED SUBJECT MATTER

The invention is directed to a point of sale system for use in the management of an equipment rental business. In a preferred embodiment, the system includes a computer operatively coupled to the internet for communicating information pertaining to the rental of equipment with one or more retail locations. In this configuration, the system allows a user to track equipment inventory and reservations and to process rental transactions at a large number of retail facilities without having to install specialized equipment or software at each retail facility. Thus, the system facilitates the management of an equipment rental business involving a large number of retail locations.

Without limiting the scope of the claimed invention in any way, the independent claims on appeal are discussed as follows:

Claim 1 is directed to a point of sale system 10 including at least one computer 15 having a computer readable medium with instructions stored thereon to provide a reservation feature 26

and a payment section 240. The reservation feature 26 has a customer information section 70 and an equipment information section 282. The customer information section 70 and the equipment information section 282 display information pertaining to reservations. The payment section 240 has a cash section, a check section and a credit card section 160. Upon entering credit card information in the credit card section 160 and activating the credit card section 160, credit authorization is obtained for a charge. *See* specification at paragraphs [0046, 0050-51, 0065, 0076 and 0079]. The computer 15 is operatively coupled to the internet 19 for communicating to or from one or more retail locations the information pertaining to reservations. *See* amendment to specification and FIG. 1A, filed April 14, 2002.

Independent claim 2 is directed to a point of sale system 10 including at least one computer 15 having a computer readable medium with instructions stored thereon to provide a rental feature 20 and a payment section 240. The rental feature 20 has a customer information section 70 and an equipment information section 282. The customer information section 70 includes information pertaining to a customer. The equipment information section 282 includes information pertaining to the equipment that the customer is interested in renting. The payment section 240 has a cash section, a check section and a credit card section 160. Upon entering credit card information in the credit card section 160 and activating the credit card section, credit authorization is obtained for a charge. *See* specification at paragraphs [0046, 0050-51, 0065, 0076 and 0079]. The computer 15 is operatively coupled to the internet 19 for communicating to or from one or more retail locations the information pertaining to the customer and the information pertaining to the equipment the customer is interested in renting. *See* amendment to specification and FIG. 1A, filed April 14, 2002.

Independent claim 13 is directed to point of sale system 10 including at least one computer 15 having a computer readable medium with instructions stored thereon to provide a customer information section 70, an equipment information section 282 and a rental feature 20. The customer information section 70 stores and recalls customer information. The equipment information section 282 stores and recalls information pertaining to a transaction. The rental feature 20 processes the rental transaction. *See* specification at paragraphs [0046, 0050-51, 0065, 0076 and 0079]. The computer 15 is operatively coupled to the internet 19 for communicating to or from one or more retail locations the customer information and the

information pertaining to the transaction. *See* amendment to specification and FIG. 1A, filed April 14, 2002.

Independent claim 19 is directed to a point of sale system 10 on a network having at least one computer-server for communicating with users. The system includes a computer network having at least one computer server 15 for communicating with users and a computer readable medium with instructions stored thereon to provide a rental feature 20 and a payment section 240. The rental feature 20 has a customer information section 70 and an equipment information section 282. The customer information section 70 includes information pertaining to a customer, and the equipment information section 282 includes information pertaining to the equipment that the customer is interested in renting. The payment section 240 has a cash section, a check section and a credit card section 160. Upon entering credit card information in the credit card section 160 and activating the credit card section, credit authorization is obtained for the charge. *See* specification at paragraphs [0046, 0050-51, 0065, 0076 and 0079]. The server is operatively coupled to the internet 19 for communicating to or from the users the information pertaining to the customer and the information pertaining to the equipment the customer is interested in renting. *See* amendment to specification and FIG. 1A, filed April 14, 2002.

Independent claim 31 is directed to a point of sale system 10 including a computer server 15, a computer readable medium and a rental feature 20. The computer-server 15 is operatively coupled to the internet 19 for communicating with one or more retail locations. The computer readable medium has instructions stored thereon to provide a rental feature 20 and a payment section 240. The rental feature 20 has a customer information section 70 and an equipment information section 282. The customer information section 70 includes information pertaining to a customer. The equipment information section 282 includes information pertaining to the equipment that the customer is interested in renting. The payment section 240 has a cash section, a check section and a credit card section 160. Upon entering credit card information in the credit card section 160 and activating the credit card section, credit authorization is obtained for the charge. *See* specification at paragraphs [0046, 0050-51, 0065, 0076 and 0079]. The information pertaining to the customer and the information pertaining to the equipment the customer is interested in renting can be communicated between the computer-server and the one or more retail locations. *See* amendment to specification and FIG. 1A, filed April 14, 2002.

Independent claim 42 is directed to a point of sale system 10 that includes a server 15 operatively coupled to one or more remote browsers and a computer readable medium. The computer readable medium has instructions stored thereon to provide a rental feature 20 and a payment section 240. The rental feature 20 has a customer information section 70 and an equipment information section 282. The customer information section 70 includes information pertaining to a customer, and the equipment information section 282 includes information pertaining to the equipment that the customer is interested in renting. The payment section 240 has a cash section, a check section and a credit card section 160. Upon entering credit card information in the credit card section 160 and activating the credit card section, credit authorization is obtained for the charge. *See* specification at paragraphs [0046, 0050-51, 0065, 0076 and 0079]. The information pertaining to the customer and the information pertaining to the equipment the customer is interested in renting can be communicated between the server and the one or more remote browsers. *See* amendment to specification and FIG. 1A, filed April 14, 2002.

GROUND OF REJECTION TO BE REVIEWED ON APPEAL

1. Is the subject matter of claims 1-3, 5-20 and 22-29 obvious under 35 U.S.C. § 103(a) over the U-Haul PC-Based System in view of Francisco et al.?
2. Is the subject matter of claims 4 and 21 obvious under 35 U.S.C. § 103(a) over the U-Haul PC-Based System in view of Francisco et al., and further in view of the Budget System?
3. Is the subject matter of claims 31-41 obvious under 35 U.S.C. § 103(a) over the U-Haul PC-Based System?
4. Is the subject matter of claims 42-52 obvious under 35 U.S.C. § 103(a) over the U-Haul PC-Based System?

ARGUMENT

1. Applicable Law

In rejecting claims under 35 U.S.C. § 103, it is incumbent upon the Examiner to establish a factual basis to support the legal conclusion of obviousness. See *In re Fine*, 837 F.2d 1071, 1073, 5 USPQ2d 1596, 1598 (Fed. Cir. 1988). In so doing, the Examiner must make the factual determinations set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 17, 148 USPQ 459, 467 (1966). “[T]he examiner bears the initial burden, on review of the prior art or on any other ground, of presenting a *prima facie* case of unpatentability.” *In re Oetiker*, 977 F.2d 1443, 1445, 24 USPQ2d 1443, 1444 (Fed. Cir. 1992). Furthermore, there must be some articulated reasoning with some rational underpinning to support the legal conclusion of obviousness. The analysis need not seek out precise teachings directed to the specific subject matter of the challenged claim, for a court can take account of the inferences and creative steps that a person of ordinary skill in the art would employ. *KSR Int’l Co. v. Teleflex Inc.*, 127 S. Ct. 1727, 82 USPQ2d 1385, 1396 (2007) (quoting *In re Kahn*, 441 F.3d 977, 988, 78 USPQ2d 1329, 1336 (Fed. Cir. 2006)). In performing this analysis, however, the “factfinder should be aware . . . of the distortion caused by hindsight bias and must be cautious of argument reliant upon *ex post* reasoning.” *KSR Int’l Co. v. Teleflex Inc.*, 127 S. Ct. 1727, 82 USPQ2d at 1397. See also *Graham v. John Deere Co.*, 383 U.S. at 36, 148 USPQ at 474. In addition, an obviousness rejection under 35 U.S.C. § 103 requires that the prior art reference (or references when combined) teach or suggest all of the claim limitations. *In re Royka*, 490 F.2d 981, 180 USPQ 580 (CCPA 1974).

The question of obviousness is resolved on the basis of underlying factual determinations including: (1) the scope and content of the prior art, (2) any differences between the claimed subject matter and the prior art, (3) the level of skill in the art, and (4) where in evidence, so-called secondary considerations. *Graham v. John Deere Co.*, 383 U.S. 1, 17-18, 148 USPQ 459, 467 (1966). See also *KSR Int’l Co. v. Teleflex Inc.*, 127 S.Ct. at 1734, 82 USPQ2d at 1391 (“While the sequence of these questions might be reordered in any particular case, the [*Graham*] factors continue to define the inquiry that controls.”)

As explained below, Applicant respectfully submits that the Examiner has failed to establish a factual basis to support the legal conclusion of obviousness. The references relied on fail to teach or suggest all of the elements of the claimed invention. In addition, the record

includes clear and convincing evidence of secondary considerations, including commercial success, long felt but unsolved needs and failure of others, which show non-obviousness.

2. The Subject Matter of Claims 1-3, 5-20 and 22-29 Is Not Obvious under 35 U.S.C § 103(a) over the U-Haul PC-Based System in View of Francisco et al.¹

A. The Cited References Do Not Disclose or Suggest All of the Elements of the Claims

In rejecting claims 1-3, 5-20 and 22-29, the Examiner has conceded that the cited art does not disclose the recited feature of “a computer-server operatively coupled to the internet for communicating with one or more retail locations.” *See* Office Action dated October 24, 2006 at page 4. Nevertheless the Examiner concludes that it would have been obvious to modify the U-Haul PC-Based System by connecting the system to the internet to provide automated tax reporting. *Id.* at page 4. The record, however, does not support this conclusion.

U-Haul’s PC-Based System was a non-internet based point of sale system that was in use by U-Haul and certain U-Haul dealers before February 5, 2000. Although U-Haul’s PC-Based System was implemented on personal computers, it was not connected to an internet server and was not available through the internet. *See* Response to Request for Information under 37 C.F.R. 1.105 (a copy of which is attached to the Evidence Appendix to this Appeal Brief).

Francisco et al. is directed to a point of sale tax reporting and collecting system that includes a smart tax register at a retail location. The smart register processes consumer transactions and calculates sales tax due for each transaction. The system forwards information regarding the transaction and sales tax to local and federal government authorities. *See* Abstract of Francisco et al. The system is not directed to managing equipment reservations and rentals. Nor does it teach or suggest an internet-based system.

Indeed, nothing in the U-Haul PC Based System or Francisco et al. teaches or suggests utilizing the internet to communicate to or from retail locations information pertaining to reservations, equipment a customer is interested in renting or other information relating to managing equipment rentals. Applicant respectfully suggests, therefore, that the Examiner has failed to establish a proper *prima facie* finding of obviousness.

¹ Claims 1, 2, 13 and 19 are independent claims. Claims 3 and 5-12 depend, either directly or indirectly, from claim 2. Claims 14-18 depend, either directly or indirectly, from claim 13. Claims 20 and 22-29 depend, either directly or indirectly, from claim 19.

In any event, even if the Examiner made a proper *prima facie* finding of obviousness, Applicant has presented clear and convincing evidence of secondary considerations to overcome that finding as discussed below.

B. The Record Includes Clear and Convincing Evidence of Secondary Considerations Showing Non-Obviousness

Applicant has submitted the Rule 132 Declaration of Gordon Michael Wiram. That Rule 132 Declaration shows by clear and convincing evidence that Applicant's claimed internet-based point of sale system addresses several long felt but unsolved needs relating to the inability to quickly and uniformly update a POS system at a nationwide network of rental equipment centers and dealers. This ability to quickly and uniformly update the claimed POS system has allowed for the successful adaptation of the system to quickly fluctuating market conditions, thereby providing economic gains. As a result, the claimed system has achieved a degree of commercial success that also demonstrates its non-obviousness.

The Examiner has asserted that the Rule 132 Declaration is insufficient because it presents certain "legal opinions" that have little evidentiary value because Mr. Wiram has an interest in the claimed invention. The only "legal opinion" that the Examiner has specifically identified is Mr. Wiram's conclusion in paragraph 5 of the Rule 132 Declaration, which states that the claimed subject matter would be novel and non-obvious to a person of ordinary skill in the art. *See* Office Action dated October 24, 2006, at page 11. This conclusion, however, is supported by the objective evidence set forth in the other paragraphs of the Rule 132 Declaration. As the Court of Appeals for the Federal Circuit held in *In re Sernaker*, 702 F.2d 989, 996 (Fed. Cir. 1983), such objective evidence must always be considered in determining obviousness. It is error not to do so. Thus, Applicant submits that the objective evidence must be considered even if it is presented by the declaration of one who has an interest in the claimed invention.

(1) Evidence of Long-Felt but Unsolved Need

As explained above, the claimed internet-based point of sale system addresses a need relating to the inability to quickly and uniformly update a point of sale system at a nationwide network of rental equipment centers and dealers. The Examiner does not appear to dispute that this was an unsolved need before Applicant's invention. Rather, the Examiner has argued only that the Rule 132 Declaration has not provided evidence of how long the need has been felt. *See*

Office Action dated October 24, 2006, at page 12. In doing so, however, the Examiner has ignored the evidence in the record showing that the need has existed for some years before the filing of this application.

In paragraph 2 of the Rule 132 Declaration, Mr. Wiram states that since before 1999 he has been involved in the development and use of a POS system at U-Haul. Also, as referenced in paragraph 3 of the Rule 132 Declaration, on April 14, 2004, the Applicant filed the Response to Requirement for Information under 37 C.F.R. 1.105. As indicated in that Response, before February 5, 2000, U-Haul and U-Haul based dealers used a PC-based point of sale system. *See* Response to Requirement for Information ¶ 4.

Thus, the record includes evidence that the admitted need was unsolved for a number of years before Applicant provided a solution. Yet, the Examiner contends that Applicant provided no such evidence at all. Applicant respectfully submits, therefore, that the Examiner improperly overlooked or ignored substantial relevant evidence in reaching a conclusion of obviousness.

(2) Evidence of Failure of Others

Next, the Examiner has argued that the Rule 132 Declaration does not present a showing that others of ordinary skill in the art were unable to solve the problems resolved by Applicant's invention. *See* Office Action dated October 24, 2006, at page 12. Again, however, the Examiner appears to have ignored the evidence set forth in the Rule 132 Declaration that shows the failure of others to provide a solution to the need to quickly and uniformly update a point of sale system for equipment reservation and rental.

As set forth in the Rule 132 Declaration, U-Haul was subject to market forces that dictated the need to transfer information promptly and accurately to remote rental equipment locations. U-Haul experienced significant inefficiencies, delays and cost in updating software and data at rental centers and dealers using its PC-based point of sale system to meet that need. *See* Rule 132 Declaration ¶¶ 7-16. Likewise, U-Haul's competitors, including Budget, Ryder and others, were subject to the same market forces that dictated the need to transfer information promptly and accurately to remote rental equipment locations. *See* Rule 132 Declaration ¶ 18. Thus, the record presents ample evidence that those competitors experienced the same need as U-Haul.

By the date of the Rule 132 Declaration in January of 2005, the internet had been available for years. Yet, by that time no companies other than U-Haul had implemented a point

of sale system for the rental and reservation of trucks or other equipment that addressed the need described above. *See* Rule 132 Declaration ¶ 17.

Applicant respectfully submits, therefore, that the record includes evidence of the failure of others to solve that need. Yet, the Examiner improperly overlooked or ignored this evidence in reaching a conclusion of obviousness.

(3) Evidence of Commercial Success

The Examiner has also asserted that the Rule 132 Declaration fails to establish commercial success of the invention. *See* Office Action dated October 24, 2006, at pages 12-13. Applicant respectfully submits, however, that the Rule 132 Declaration provides clear and convincing evidence to show commercial success as well as the nexus between that success and the claimed invention.

An applicant who is asserting commercial success to support its contention of non-obviousness must show a nexus between the claimed invention and evidence of commercial success. *See In re Huang*, 100 F.3d 135, 140, 40 USPQ2d 1685, 1689 (Fed. Cir. 1996). The term “nexus” designates a factually and legally sufficient connection between the evidence of commercial success and the claimed invention so that the evidence is of probative value in the determination of non-obviousness. *Demaco Corp. v. F. Von Langsdorff Licensing Ltd.*, 851 F.2d 1387, 7 USPQ2d 1222 (Fed. Cir. 1988).

Applicant has shown such a nexus. As specifically set forth in the Rule 132 Declaration, the internet connection feature recited in Applicant’s claims has provided U-Haul the ability to quickly and uniformly provide updated information to U-Haul dealers and rental centers and to successfully adapt to quickly fluctuating market conditions. *See* Rule 132 Declaration ¶ 18. This has successfully reduced capital costs. *Id.* ¶ 19.

The Rule 132 Declaration provides specifics as to the savings achieved by the subject features as well as how those savings were achieved. As Mr. Wiram expressly states in the Rule 132 Declaration, “[b]y connecting the POS system to the internet, as claimed, U-Haul has been able to enforce [rental return] agreements and verify whether the customer has in fact returned a vehicle to the agreed-upon location.” *Id.* ¶ 20. Mr. Wiram concludes that, as a result of such enforcement, it is his understanding that U-Haul has saved approximately \$6 million to \$9 million dollars “by only giving discounted rates to those customers who have returned their

vehicles to the agreed upon location.” *Id.* Thus, the Rule 132 Declaration provides substantial, specific evidence to show the nexus between the stated commercial success and the invention.

Notwithstanding this clear and specific evidence, the Examiner has asserted that the Declaration provides “no evidence to support the conclusion that the invention has reduced capital costs.” This conclusion simply ignores the evidence expressly set forth in the Rule 132 Declaration. This evidence includes paragraph 19 the Declaration, which states that the invention has reduced capital costs “by avoiding the need for each dealer and center to have a computer which meets the specifications necessary to run the POS system software.” In addition, the ignored evidence includes paragraph 15 of the 132 Declaration, which states that the internet-based POS system allows each dealer and rental center to access changes to software and data without having a computer that meets such requirements.

With regard to the statements of commercial success in paragraph 20 of the Rule 132 Declaration, the Examiner appears to concede that savings of \$6 million to \$9 million dollars indicates commercial success. Nevertheless, the Examiner has concluded that the nexus between that success and the claimed invention is not clear. Again, the Examiner has overlooked or ignored the specific evidence set forth in the Rule 132 Declaration. As Mr. Wiram has expressly stated by that document, “[b]y connecting the POS system to the internet, as claimed, U-Haul has been able to enforce [rental return] agreements and verify whether the customer has in fact returned a vehicle to the agreed-upon location.” Rule 132 Declaration ¶ 20. Moreover, the Rule 132 Declaration states that the subject savings resulted from such enforcement and verification. *Id.*

Applicant respectfully submits, therefore, that the Rule 132 Declaration establishes a direct connection between the commercial success and the claimed invention and thereby demonstrates the non-obviousness of the claimed invention. Thus, whether or not the Examiner presented a *prima facie* case of obviousness, the Rule 132 Declaration demonstrates that claims 1-3, 5-20 and 22-29 are allowable over the references of record.

3. The Subject Matter of Claims 4 and 21 Is Not Obvious under 35 U.S.C § 103(a) over U-Haul System in View of Francisco et al. and further in view of the Budget System.²

In rejecting claims 4 and 21, the Examiner further cited the Budget System. Like the U-Haul PC-Based System and Francisco et al., however, nothing in the Budget System teaches or suggests utilizing the internet to communicate to or from retail locations information pertaining to reservations, equipment a customer is interested in renting or other information relating to managing equipment rentals.

The Budget System was a PC-based reservation/rental program used before February 5, 2001. That system, however, was neither coupled to an internet server nor available via the internet. See Response to Requirement for Information ¶ 7. Applicant respectfully suggests, therefore, that the record does not establish a proper *prima facie* case of obviousness with respect to claims 4 and 21.

In any event, even if the Examiner made a proper *prima facie* finding of obviousness, as discussed above, the Rule 132 Declaration presents clear and convincing evidence of secondary considerations to overcome that finding. Thus, Applicant respectfully submits that claims 4 and 21 are allowable over the references of record.

4. The Subject Matter of Claims 31-41 Is Not Obvious under 35 U.S.C § 103(a) over the U-Haul PC-Based System³

In rejecting claims 31-41, the Examiner has conceded that the cited art does not disclose the recited feature of “a computer-server operatively coupled to the internet for communicating with one or more retail locations.” See Office Action dated October 24, 2006 at pages 6-8. Nevertheless the Examiner concludes that it would have been obvious to modify the U-Haul PC-Based System by placing its functionalities on a server to ease software updates to the system. *Id.* at page 7. Applicant respectfully submits, however, that the Examiner reached this conclusion based on impermissible hindsight resulting from Applicant’s specification. Other than that hindsight, the Examiner has provided no reasonable rationale to explain why it would have been obvious to one of ordinary skill in the art to modify the U-Haul PC Based System to achieve the claimed invention.

² Claim 4 depends directly from claim 2. Claim 21 depends directly from claim 19.

³ Claim 31 is an independent claim. Claims 32-41 depend, either directly or indirectly, from claim 31.

Again, even if the Examiner made a proper *prima facie* finding of obviousness, Applicant has presented clear and convincing evidence of secondary considerations to overcome that finding. As discussed above, the Rule 132 Declaration establishes the non-obviousness of utilizing the internet to communicate to or from retail locations information pertaining to reservations, equipment a customer is interested in renting or other information relating to managing equipment rentals.

Therefore, Applicant respectfully submits that claims 31-41 are not obvious over the cited references of record.

5. The Subject Matter of Claims 42-52 Is Not Obvious under 35 U.S.C § 103(a) over the U-Haul PC-Based System.⁴

In rejecting claims 42-52, the Examiner has apparently conceded that the cited art does not disclose the recited features of “a server operatively coupled to one or more remote browsers” wherein rental information “can be communicated between the server and the one or more remote browsers.” See Office Action dated October 24, 2006, at pages 9-10. Nevertheless, the Examiner concludes that it would have been obvious to provide the functionality of the U-Haul PC-Based System in a client having a browser interface in order to facilitate access to remote shared databases while minimizing the load on the server. *Id.* at page 10.

Again, Applicant respectfully submits that the Examiner reached this conclusion based on impermissible hindsight resulting from Applicant’s specification. Without that hindsight, the Examiner has provided no reasonable rationale to explain why it would have been obvious to one of ordinary skill in the art to modify the U-Haul PC Based System to implement a system using a server operatively coupled to one or more remote browsers, so that the system could operate over the internet. In any event, as discussed above, the Rule 132 Declaration establishes the non-obviousness of utilizing the internet to communicate to or from retail locations information pertaining to reservations, equipment a customer is interested in renting or other information relating to managing equipment rentals.

Therefore, Applicant respectfully submits that claims 42-52 are not obvious over the cited references of record.

⁴ Claim 42 is an independent claim. Claims 43-52 depend, either directly or indirectly, from claim 42.

CLAIMS APPENDIX

An appendix including a copy of the claims involved in the appeal is attached.

EVIDENCE APPENDIX

An appendix including evidence of record is attached.

RELATED PROCEEDINGS APPENDIX

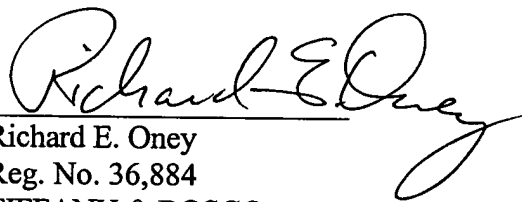
None.

CONCLUSION

For the foregoing reasons, the subject matter of claims 1-29 and 31-52 is not obvious in view of the references of record. Applicant therefore respectfully requests that the Board reverse the Examiner's rejection of claims 1-29 and 31-52 and allow the claims.

Dated: January 16, 2008

Respectfully submitted,

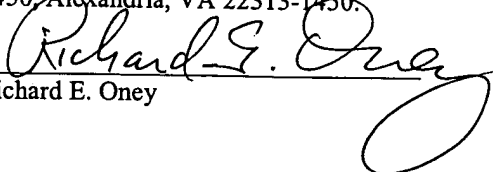

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Richard E. Oney

Jan. 16, 2008
Date of Signature

CLAIMS APPENDIX

1. (Previously presented) A point of sale system comprising:
at least one computer having a computer readable medium with instructions stored thereon to provide
a reservation feature having a customer information section and an equipment information section, wherein the customer information section and equipment information section display information pertaining to reservations; and
a payment section having a cash section, check section and a credit card section, wherein upon entering credit card information in the credit card section and activating the credit card section, credit authorization is obtained for a charge;
wherein said computer is operatively coupled to the internet for communicating to or from one or more retail locations the information pertaining to reservations.

2. (Previously presented) A point of sale system comprising:
at least one computer having a computer readable medium with instructions stored thereon to provide
a rental feature having a customer information section and an equipment information section, wherein the customer information section includes information pertaining to a customer, and the equipment information section includes information pertaining to the equipment that the customer is interested in renting; and
a payment section having a cash section, check section and a credit card section, wherein upon entering credit card information in the credit card section and activating the credit card section, credit authorization is obtained for a charge;

wherein said computer is operatively coupled to the internet for communicating to or from one or more retail locations the information pertaining to the customer and the information pertaining to the equipment the customer is interested in renting.

3. (Original) The point of sale system of claim 2 further comprising a transfer feature having an equipment information section that prompts for information pertaining to equipment that is the subject of a transfer.

4. (Original) The point of sale system of claim 2 further comprising a return feature having an equipment information section that prompts for information pertaining to equipment that is being returned and a payment section for payment of a rental fee associated with the equipment returned.

5. (Original) The point of sale system of claim 2 further comprising a reporting feature that reports a status to a user.

6. (Previously presented) The point of sale system of claim 5 a closing report having a list of all transactions processed for a specified day.

7. (Original) The point of sale system of claim 6 wherein the closing report includes a contract number, a method of payment, an amount received, and an amount refunded.

8. (Original) The point of sale system of claim 5 further comprising an inventory report having a list of the equipment available for rental.

9. (Original) The point of sale system of claim 5 further comprising a reservation report having a list of customers who have made a commitment to rent equipment.

10. (Original) The point of sale system of claim 5 further comprising an equipment due report having a list of equipment that is out on rental.

11. (Original) The point of sale system of claim 5 further comprising a refund report having a list of refunds that have been provided to a customer for a specified date.

12. (Original) The point of sale system of claim 11 further comprising a marketing section having a marketing message related to the moving equipment rental business.

13. (Previously presented) A point of sale system comprising:
at least one computer having a computer readable medium with instructions stored thereon to provide
a customer information section that stores and recalls customer information;
an equipment information section that stores and recalls information pertaining to a transaction; and
a rental feature that processes the rental transaction;
wherein said computer is operatively coupled to the internet for communicating to or from one or more retail locations the customer information and the information pertaining to the transaction.

14. (Original) The point of sale system of claim 13 wherein the rental feature displays a rental rate for an equipment identified equipment information section.

15. (Previously presented) The point of sale system of claim 13 wherein the rental feature can provide a printable rental agreement.

16. (Original) The point of sale system of claim 15 wherein the rental agreement includes the terms of the rental transaction.

17. (Original) The point of sale system of claim 15 wherein the rental agreement includes an itemized list of charges.

18. (Original) The point of sale system of claim 13 further comprising a credit card payment section which, upon activation, obtains credit card authorization.

19. (Previously presented) A point of sale system on a network, the network having at least one computer-server for communicating with users, said system comprising:

a computer network having at least one computer server for communicating with users and a computer readable medium with instructions stored thereon to provide

a rental feature having a customer information section and an equipment information section, wherein the customer information section includes information pertaining to a customer, and the equipment information section includes information pertaining to the equipment that the customer is interested in renting; and

a payment section having a cash section, check section and a credit card section, wherein upon entering credit card information in the credit card section and activating the credit card section, credit authorization is obtained for the charge;

wherein said server is operatively coupled to the internet for communicating to or from the users the information pertaining to the customer and the information pertaining to the equipment the customer is interested in renting.

20. (Original) The point of sale system of claim 19 further comprising a transfer feature having an equipment information section that prompts for information pertaining to equipment that is the subject of a transfer.

21. (Original) The point of sale system of claim 19 further comprising a return feature having an equipment information section that prompts for information pertaining to equipment that is being returned and a payment section for payment of a rental fee associated with the equipment returned.

22. (Original) The point of sale system of claim 19, further comprising a reporting feature that reports a status to a user.

23. (Previously presented) The point of sale system of claim 22 wherein the reporting feature can provide a closing report having a list of all transaction processed for a specified day.

24. (Original) The point of sale system of claim 23 wherein the closing report includes a contract number, a method of payment, an amount received, and an amount refunded.

25. (Original) The point of sale system of claim 22 further comprising an inventory report having a list of the equipment available for rental.

26. (Original) The point of sale system of claim 22 further comprising a reservation report having a list of customers who have made a commitment to rent equipment.

27. (Original) The point of sale system of claim 22 further comprising an equipment due report having a list of equipment that is out on rental.

28. (Original) The point of sale system of claim 22 further comprising a refund report having a list of refunds that have been provided to a customer for a specified date.

29. (Original) The point of sale system of claim 28, further comprising a marketing section having a marketing message related to the moving equipment rental business.

30. (Withdrawn) A method of processing a point of sale transaction, comprising the steps of:

providing an internet-based browser system having a customer information section, an equipment information section and a payment processing section;

entering customer information into the customer information section;

entering into the equipment information section information pertaining to equipment that the customer is interested in renting;

entering payment information in the payment processing section, wherein the payment processing section includes a credit card authorization feature that, upon activation, contacts a credit authorization service, obtains authorization and prints out a receipt to be signed by the client.

31. (Previously presented) A point of sale system, comprising:

a computer-server operatively coupled to the internet for communicating with one or more retail locations;

a computer readable medium having instructions stored thereon to provide a rental feature and a payment section;

said rental feature having a customer information section and an equipment information section, wherein the customer information section includes information pertaining to a customer, and the equipment information section includes information pertaining to the equipment that the customer is interested in renting; and

said payment section having a cash section, check section and a credit card section, wherein upon entering credit card information in the credit card section and activating the credit card section, credit authorization is obtained for the charge;

wherein the information pertaining to the customer and the information pertaining to the equipment the customer is interested in renting can be communicated between the computer-server and the one or more retail locations.

32. (Previously presented) The point of sale system of claim 31, wherein said computer server is configured to further include a transfer feature having an equipment information section that prompts for information pertaining to equipment that is the subject of a transfer.

33. (Previously presented) The point of sale system of claim 31, wherein said computer server is configured to further include an equipment information section that prompts for information pertaining to equipment that is being returned and a payment section for payment of a rental fee associated with the equipment returned.

34. (Previously presented) The point of sale system of claim 31, wherein said computer server is configured to further include a reporting feature that reports a status to a user.

35. (Previously presented) The point of sale system of claim 34, wherein said reporting feature comprises a closing report having a list of all transaction processed for a specified day.

36. (Previously presented) The point of sale system of claim 35 wherein the closing report includes a contract number, a method of payment, an amount received, and an amount refunded.

37. (Previously presented) The point of sale system of claim 34 wherein said reporting feature comprises an inventory report having a list of the equipment available for rental.

38. (Previously presented) The point of sale system of claim 34 wherein said reporting feature comprises a reservation report having a list of customers who have made a commitment to rent equipment.

39. (Previously presented) The point of sale system of claim 34 wherein said reporting feature comprises an equipment due report having a list of equipment that is out on rental.

40. (Previously presented) The point of sale system of claim 34 wherein said reporting feature comprises a refund report having a list of refunds that have been provided to a customer for a specified date.

41. (Previously presented) The point of sale system of claim 31 wherein said computer server is configured to further include a marketing section having a marketing message related to the moving equipment rental business.

42. (Previously presented) A point of sale system comprising:
a server operatively coupled to one or more remote browsers;
a computer readable medium having instructions stored thereon to provide a rental feature and a payment section;

said rental feature having a customer information section and an equipment information section, wherein the customer information section includes information pertaining to a customer, and the equipment information section includes information pertaining to the equipment that the customer is interested in renting; and

said payment section having a cash section, check section and a credit card section, wherein upon entering credit card information in the credit card section and activating the credit card section, credit authorization is obtained for the charge

wherein the information pertaining to the customer and the information pertaining to the equipment the customer is interested in renting can be communicated between the server and the one or more remote browsers.

43. (Previously presented) The point of sale system of claim 42, wherein said instructions further provide a transfer feature having an equipment information section that prompts for information pertaining to equipment that is the subject of a transfer.

44. (Previously presented) The point of sale system of claim 42, wherein said instructions further provide a return feature having an equipment information section that prompts for information pertaining to equipment that is being returned and a payment section for payment of a rental fee associated with the equipment returned.

45. (Previously presented) The point of sale system of claim 42, wherein said instructions further provide a reporting feature that reports a status to a user.

46. (Previously presented) The point of sale system of claim 45, wherein said reporting feature comprises a closing report having a list of all transaction processed for a specified day.

47. (Previously presented) The point of sale system of claim 46 wherein the closing report includes a contract number, a method of payment, an amount received, and an amount refunded.

48. (Previously presented) The point of sale system of claim 45 wherein said reporting feature comprises an inventory report having a list of the equipment available for rental.

49. (Previously presented) The point of sale system of claim 45 wherein said reporting feature comprises a reservation report having a list of customers who have made a commitment to rent equipment.

50. (Previously presented) The point of sale system of claim 45 wherein said reporting feature comprises an equipment due report having a list of equipment that is out on rental.

51. (Previously presented) The point of sale system of claim 45 wherein said reporting feature comprises a refund report having a list of refunds that have been provided to a customer for a specified date.

52. (Previously presented) The point of sale system of claim 42, wherein said instructions further provide a marketing section having a marketing message related to the moving equipment rental business.

EVIDENCE APPENDIX

1. Response to Request for Information under 37 C.F.R. 1.105.
2. Rule 132 Declaration of Gordon Michael Wiram.



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In Re Application of:

Gordon Michael WIRAM

Serial No.: 09/777,722

Filed: February 5, 2001

For: POINT OF SALE SYSTEM

Art Unit: 3627

Examiner: Steven B. McAllister

Mail Stop Fee Amendment
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

CERTIFICATE OF MAILING

I hereby certify that this document is being deposited with the U.S. Postal Service "Express Mail Post Office to Addressee" service under 37 C.F.R. §1.10 and is addressed to: Mail Stop Fee Amendment, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on April 14, 2004, Express Mail Label No. EV272831326US,
by Bobbie-Jean Corbin
Bobbie-Jean Corbin

RESPONSE TO REQUIREMENT FOR INFORMATION UNDER 37 C.F.R. 1.105

I the undersigned, GORDON MICHAEL WIRAM, submit this response to the Examiner's requirement for information on behalf of myself and on behalf of U-Haul International, Inc. ("U-Haul"), the assignee of the present application, and state as follows:

1. I am the inventor of the present invention and am employed by U-Haul. I am authorized to respond to the Examiner's requirement for information on behalf of U-Haul.

2. I have made a reasonable and diligent effort to obtain information responsive to the Examiner's requirement for

Response to Requirement for
Information Under 37 C.F.R. 1.105.

-1-

Appl. No. 09/777,722
Atty. Docket No. 57111-5098
Customer No. 24574

information. Set forth below is the information which was obtained as a result of my efforts. The information is organized according to the three topics listed in the Office Action, dated January 14, 2004.

3. The submission of this response is not intended as an admission that the information contained herein constitutes prior art against the claims of the present application. U-Haul does not waive any rights to take any action which would be appropriate to remove as a competent reference any activities or publications that are determined to constitute prima facie prior art against the claims of the present application.

A. Any information regarding applicant's or assignee's public use of a computerized reservation system prior to February 5, 2000 in which the system has any claimed elements of the invention.

4. Prior to February 5, 2000, a Personal Computer ("PC") based Point of Sale system was in use by U-Haul and certain U-Haul dealers. Although the system was implemented on personal computers and/or computer networks, it was not connected or coupled to an internet server, and thus, was not available through the internet. This PC-based system included a rental feature having a customer information section and a payment section, a reservation feature having a customer information section and an equipment information section, and a payment section, having a cash section, check section and credit card section. The PC-based system further included a transfer feature

having an equipment information section, a reporting feature comprising a closing report, a reservation report, an inventory report, an equipment due report and a refund report, as well as a marketing section having a marketing message relating to the moving equipment rental business. In addition, the PC-based system included a customer information section that stored and recalled customer information, as well as an equipment information section that stored and recalled information pertaining to a transaction. It also included a rental feature with a printable rental agreement.

5. The PC-based system was not directly used by U-Haul's customers. Instead, U-Haul, U-Haul owned and operated stores, or U-Haul's dealers would input information provided by customers into the system.

6. At no time prior to February 5, 2000 did U-Haul or U-Haul's dealers publicly use a point of sale system containing any of the presently claimed features which was coupled to an internet server or available via the internet.

B. Any information regarding any computerized reservation system used by any entity other than the assignee prior to February 5, 2001 in which the system had any claimed element of the invention.

7. It is my understanding that Budget and Ryder used a PC-based reservation/rental program prior to February 5, 2001. Whether the respective programs were used by the public as opposed to internally by Budget and Ryder personnel is unknown

and not readily available to U-Haul or myself. However, I further understand that neither system was coupled to an internet server or available via the internet. Both the Ryder and Budget programs included the following features: a rental feature with a payment section, a reservation feature with a payment section, a returned equipment section, a closing report, an inventory report, and a reservation report. The Ryder system included a reservation report. Whether the Budget system included such a report is unknown and not readily available to U-Haul or myself. It is my understanding that neither the Budget nor Ryder systems included an equipment transfer function, a status reporting function, or a feature which recalls stored customer and equipment information and then processes a rental transaction.

8. It is my understanding that a company called Solutions by Computer had a rental business software program for use by contractors or general rental stores prior to February 5, 2001. However, the specific functionality of the software is unknown and not readily available to U-Haul or myself.

C. Any non-patent literature known by the applicant or assignee discussing any computerized reservation system having any element of the claimed invention published prior to February 5, 2001.

9. It is unknown and not readily available to U-Haul or myself whether any non-patent literature that is responsive to this request exists. However, two publications, "Rental Management" and "Rental Equipment Register" may have relevant information. Neither U-Haul nor I have copies of these publications which contain any relevant, responsive information.

Dated: April 12, 2001

Gordon Michael Wiram
Gordon Michael Wiram

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In Re Application of:

Gordon Michael WIRAM

Serial No.: 09/777,722

Filed: February 5, 2001

For: POINT OF SALE SYSTEM

Art Unit: 3627

Examiner: Steven B. McAllister

Mail Stop Fee Amendment
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

CERTIFICATE OF MAILING

I hereby certify that this document is being deposited with the U.S. Postal Service "Express Mail Post Office to Addressee" service under 37 C.F.R. §1.10 and is addressed to: Mail Stop Fee Amendment, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on January 13, 2005, Express Mail Label No. EV272834591US,
by Bobbie Jean Corbin
Bobbie Jean Corbin

DECLARATION UNDER 37 C.F.R. 1.132 IN RESPONSE TO JULY 13, 2004

OFFICE ACTION

I, GORDON MICHAEL WIRAM, declare that:

1. I am a named inventor of the "Point of Sale System," which is claimed and disclosed in the above-identified patent application.

2. Since prior to 1999, I have been involved in the development and use of a Point of Sale System ("POS") for U-Haul International, Inc. ("U-Haul") the assignee of the above-identified patent application.

Evidence Appendix Exhibit 2

Rule 132 Declaration

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Customer No. 24574

3. U-Haul has implemented both a non-internet based POS system (the "PC-based system" referenced in my Response to the Requirement for Information, dated April 14, 2004) and an internet-based POS system. The internet-based system has been in operation since 2001 and is described and claimed in the above-referenced application. It is currently in use by 800 out of 1,400 company owned stores (rental centers) and approximately 11,000 out of 13,000 dealers.

4. I have reviewed the Office Action, dated July 13, 2004. The Examiner has cited Francisco, et al., U.S. Patent No. 5,875,433 ("Francisco") and the information provided in my Response to the Requirement for Information, dated April 14, 2004 ("Response"). I am familiar with the contents of Francisco and my Response. I understand that the Examiner has asserted that the claims of the above-referenced application are obvious in view of U-Haul's PC-based POS system, the Budget system referenced in my Response and/or Francisco (the "Cited References").

5. In my opinion, the claims of the present application would be novel and non-obvious to a person of ordinary skill in the art and are not suggested or disclosed by the Cited References, either alone or in combination.

6. It is my understanding that certain "Secondary Considerations" of non-obvious may be used to rebut an Examiner's finding of obviousness. In this case, the Secondary Considerations demonstrate that the claimed invention is non-obvious.

The Claimed Invention Addresses Long Felt But Unsolved
Needs

7. To facilitate the management of its rental equipment business, U-Haul organized several marketing companies having different geographic territories. These marketing companies are wholly-owned subsidiaries of U-Haul International, Inc. Each marketing company utilizes a number of U-Haul rental centers and dealers who maintain and provide equipment to customers at their various locations. Currently, there are approximately 1,400 rental centers and 13,000 dealers.

8. To use the PC-based POS system, each rental center and dealer had to have its own computer or computer network. Each of these computers or networks had POS system software loaded on it for making POS equipment, rental and reservation transactions.

9. Prior to the implementation of the internet-based system, any time a change needed to be made to the POS system software or the database information used by it, the specific software and/or database information resident on each machine had to be updated. To do this, U-Haul had to transmit updated copies of the software and/or database to each rental center and dealer which used the POS system (at the time approximately 1,400 rental centers and 1,000 dealers used the PC-based POS System). Specific software was developed in order to transmit the updated program and database from U-Haul's corporate headquarters to its regional centers and down to the dealers and rental centers. Additional software was required to transmit the updates to each work station used by a particular dealer or rental center. Communication problems frequently disrupted the updating process, and as a result, it frequently took one week or more to complete the updates and verify their completion at each location.

10. Because of the cumbersome system of implementing software and database changes, as market conditions changed, the prior system increased the risk that many dealers or rental centers would not timely receive updates to their POS system software and database information. One category of such database information is rental rates. It is my understanding that economic opportunities were lost because, for example, the dealers and rental centers would rent equipment at rates lower than the market would bear. On information and belief, at times dealers and rental centers also provided equipment at inconsistent prices because of the inherent delay in implementing software and database changes.

11. Aside from rental rate changes, U-Haul's business decisions were also implemented inconsistently with the PC-based system. Under the PC-based system, for example, if it were determined that the company no longer wished to do business with a particular customer because he had failed to comply with U-Haul's contractual terms in the past, that information had to be transmitted to and implemented in each dealer and rental center's POS system. The databases of each rental center and dealer were not linked in the PC-based system. Thus, to identify a problem customer in the POS System, the dealer or rental center that identified the problem customer had to notify the persons responsible for updating the database that a database change was needed. The updated database then had to be transmitted to each location in the manner described above for making software changes. As a result, it is my understanding that the problem customer could continue doing business with U-Haul until the entire system was been updated, thus perpetuating the problem that led U-Haul to decide it no longer wished to do business with the customer in the first place.

12. Because U-Haul has to regulate the flow of its vehicles throughout the country, it frequently offers incentives for customers to return vehicles to specific locations which are in need of them. A discounted rate is provided in return for the customer's agreement to return the vehicle to the specified location. In the PC-based system, dealers and rental centers could not view one another's rental contracts through the POS system. On information and belief, dealers and centers to whom vehicles were returned were frequently unaware of the specific rental contract a customer had made at the time of obtaining a vehicle. It is my understanding that as a result of this deficiency in the PC-based system, many customers were able to return their vehicles to locations other than the ones to which they agreed yet were still able to obtain the agreed-upon rental discount.

13. The PC-based system was additionally costly in that it required individual dealers and rental centers to obtain computers and networks which had the capability of maintaining and executing the POS system software. It is my understanding that numerous software components, specific operating systems, and specific processors were required to do this.

14. In light of the foregoing, a long-felt but unsolved need developed for a way to quickly and uniformly implement changes to the POS system software and database throughout the U-Haul system. A need also developed to avoid the required use of computers meeting the specifications necessary to locally run the POS system software.

15. The claimed invention addresses the foregoing long felt but unsolved needs. The nexus between the claimed invention and its ability to address those needs is the claimed connection to the internet. With the claimed internet-based system, changes to the POS system software and database can be made at a central internet server and are quickly made available to rental centers and dealers without their having to take any action. As a result, changes to rental rates, customer information, and equipment information are transmitted quickly to all of U-Haul's dealers and rental centers. In addition, each dealer's computers need only have the capability to connect to and interact with the internet. They no longer need to meet the stringent specifications required for the non-internet based system.

16. To overcome the foregoing long-felt needs and implement the POS system on the internet, the system code and database had to be modified to operate in the internet environment and to handle large volumes of information at a central location. In addition, the various rental centers and dealers had to obtain internet connections (dial-up, dsl, cable modem, etc.) to access the system.

17. I am generally familiar with the rental systems used by U-Haul's competitors and am generally aware of the systems used by Budget and Ryder which were described in my Response to the Requirement for Information. While the internet has been around for a number of years, on information and belief, no other companies have implemented a POS system for the rental and reservation of trucks or other equipment which addresses the foregoing needs or which is connected to the internet.

Commercial Success of the Claimed Invention

18. The implementation of the claimed internet-based POS system has been commercially successful. The nexus between the commercial success of U-Haul's internet-based POS system and the claimed invention is the recitation of an internet connection in each of the pending claims. As market conditions have changed, rental rate information has been transmitted quickly to all of U-Haul's dealers and rental centers because the internet connection avoids the need to download rental rate changes to each of the various dealer's and rental centers computers. As a result, it is my belief that U-Haul has been able to quickly adapt to changing market forces without having certain of its dealers or centers lagging behind and using out of date rental prices. Because U-Haul and its competitors are subject to the same market forces, it is also my belief that the claimed invention has given U-Haul a competitive edge over Budget, Ryder and its other competitors.

19. The internet-based system has also been commercially successful in that it has reduced capital costs for computers by avoiding the need for each dealer and center to have a computer which meets the specifications necessary to run the POS system software.

20. As mentioned above, U-Haul offers rental rate concessions for those customers who agree to return rental vehicles to a specific location, usually a location in need of that particular vehicle. By connecting the POS system to the internet, as claimed, U-Haul has been able to enforce these agreements and verify whether the customer has in fact returned a vehicle to the agreed-upon location. As a result of enforcing these agreements, it is my understanding that U-Haul has saved approximately \$6-9 million/year by only giving discounted rates to those customers who have returned their vehicles to the agreed upon location.

21. Based on the foregoing, I believe that none of the cited references suggest or disclose that the use of the claimed invention would address the long felt but unsolved needs or provide the commercial success described above. As a result, I believe that the claimed invention is novel and non-obvious over the cited references.

All statements made of my own knowledge are true, and all statements made upon information and belief are believed to be true. I have been warned that willful false statements are punishable by fine, or imprisonment, or both (18 U.S.C. 1001) and may jeopardize the validity of the application or any patent issuing thereon.

Dated: Jan 12, 2005Gordon Michael Wiram
Gordon Michael Wiram

Rule 132 Declaration

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Appl. No. 09/777,722
Atty. Docket No. 57111-5098
Customer No. 24574

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RELATED PROCEEDINGS APPENDIX

None.